Congress of the United States

Washington, DC 20515

May 30, 2001

Ms. Donna Wieting
Chief, Marine Mammal Conservation Division
Office of Protected Resources
National Marine Fisheries Service
Silver Spring, MD 20910

Dear Ms. Wieting:

We are writing to provide our comments on the proposed rule for the Taking of Marine Mammals Incidental to Navy Operations of Surveillance Towed Array Sensor System (SURTASS) Low Frequency Active (LFA) sonar published in the Federal Register on March 19, 2001. Although we recognize the importance of maintaining the Navy's ability to conduct its anti-submarine warfare mission, we feel that there are still many unanswered questions regarding the long-term impact of the use of LFA sonar, and that approval of the proposed rule by the National Marine Fisheries Service (NMFS) may be premature.

There still appears to be significant controversy surrounding the selection of 180 dB as the criteria at which there is a 95 percent risk of disruption of biologically important behavior. Several scientists have suggested that this sound level is too high. The Low Frequency Sound Scientific Research Program (LFS SRP) produced new information about responses to received levels of 120 to 155 dB, but there is little empirical data above this level. The LFS SRP proposes that a received level of 165 dB presents a 50 percent risk of level B harassment. If sound levels lower than 180 dB are capable of causing harassment and/or injury, the zone of potential harm around the LFA transmitter will be considerably larger and more animals may be affected. Furthermore, we are concerned there is virtually no information on the effects of repeated exposure to Low-Frequency sonar, even at much lower received levels.

We understand that the Navy has proposed to undertake three forms of monitoring to ensure that there are no marine mammals within a 1 km zone surrounding the LFA transmitter and therefore subject to sound levels greater than 180 dB. This tripartite monitoring system may be very effective at mitigating the effects of LFA within this 1 km zone. However, it is not clear how the Navy will monitor and report the takes which occur outside the observation zone. For this reason, we are concerned that it may not be possible to have an accurate assessment of the impact of the use of LFA on the various populations of marine mammals.

Finally, we feel that it is not appropriate to approve the rule for the use of LFA sonar until there has been thorough analysis and report of the stranding event that occurred in March 2000 in the Bahamas. Although we understand that this event coincided with the use of Mid-Frequency sonar, rather than LFA sonar, it does at least illustrate the potential for the use of sonar to have

devastating consequences under certain circumstances. We feel it would be prudent to ensure that we have a more complete understanding of this event before proceeding with the large scale deployment of another sonar system. In particular, the potential for resonance effects, which seemed to have caused the critical injuries during the use of Mid-Frequency Active sonar, should be closely examined with respect to LFA. We are concerned that both the auditory and physiological effects of LFA sonar have not been examined for a wider range of species.

In conclusion, we do not feel that there is sufficient evidence at this time to ensure that the effect of SURTASS LFA sonar on marine animals will be negligible, nor is there a sufficient mechanism to monitor the potential takes. We appreciate the opportunity to provide comments on the proposed rule. Thank you for your attention to these concerns. We will continue to follow this matter closely.

Sincerely,

Tom Allen
Member of Congress

John Baldacci
Member of Congress